IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 76 OF 2007

Dindayal Commodities Pvt.Ltd., .. Petitioners.

vs.

Forward Market Commission

& Anr. .. Respondents.

Mr. P.N. Modi a/w Mr. Ranjit Bhosale i/by
Thakordas & Madgavkar & Co.
for petitioners.

Mr. Birendra Saraf a/w Ms. Neeta Ganglani
i/by M/s. M.K. Ambalal & Co.
for Respondent no. 2.

Mr. Vijay Kantharia a/w Mrs. Madhuri Gaikwad
for Respondent No. 1.

..

Coram: J.N. PATEL &,
S.C. DHARMADHIKARI, JJ.
Date: 7th February, 2007.

P.C.

. Heard.

2. The petition can be disposed of at the stage of

admission itself without going into the merits of the matter. We are prima facie of the view that the respondent has initiated action against the petitioners vide the impugned order without giving him an opportunity of hearing. Therefore, as the impugned order visits the petitioner with the penalty of a sum of Rs. 1,00,87,384/- and disconnection of their trading terminal, the respondent ought to have given an opportunity of hearing in consonance with the principles of natural justice to the petitioners before taking such drastic action. Therefore, we pass the following order:-

(i) This order is being passed without prejudice to the respective rights and contentions of the parties and the issue of maintainability of a Writ Petition against Respondent No. 2 is also kept open.

(ii) Upon the Petitioners depositing a sum of Rs. 25,21,846/- (Rupees Twenty Five Lakhs Twenty One Thousand Eight Hundred Forty Six Only) and a bank Guarantee of Rs.25,21,846/- (Rupees Twenty Five Lakhs Twenty One Thousand Eight Hundred Forty Six Only) with Respondent No. 2, Respondent No. 2 shall forthwith reconnect the Petitioners' Trading Terminals and permit the Petitioners to carry on trading in the normal

course.

(iii) Respondent No. 2 shall issue a Show Cause Notice to the Petitioners within two weeks from the date of deposit and furnishing of Bank Guarantee and give the Petitioners an opportunity to file its reply and give a personal hearing in the matter. Respondent No. 2 shall pass a reasoned order in the matter within four weeks from filing of the reply by the Petitioners.

(iv) If the order which would be passed by the Respondent No. 2 is adverse to the Petitioners the same shall not be acted upon in any manner whatsoever nor will the aforesaid Bank Guarantee be encashed for a period of 4 weeks from the date of communication of the order of the Petitioners.

(v) If the order is in favour of the Petitioners then the Respondent No. 2 shall refund the aforesaid sum of Rs. 25,21,846/- to the Petitioners within one weeks time from the date of the order and discharge the aforesaid Bank Guarantee immediately.

(vi) Writ Petition disposed off in the aforesaid terms with no orders as to cost.

3. As we have disposed of the petition, the notice of motion and chamber summons do not survive and the same stand disposed of accordingly.

(J.N. Patel, J.)

(S.C. Dharmadhikari, J.)